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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2004 JUL -6 P 4:20

U.S. DISTRICT COURT
DISTRICT OF MASS.

ZONEPERFECT NUTRITION
COMPANY,

Plaintiff and Counterclaim Defendant

v.

HERSHEY FOODS CORPORATION,
HERSHEY CHOCOLATE &
CONFECTIONERY CORPORATION,
DR. BARRY D. SEARS, and
ZONE LABS, INC.,

Defendants and Counterclaim Plaintiffs

CIVIL ACTION NO: 04-10760 RGS

AFFIDAVIT OF ANNE GENOVESE

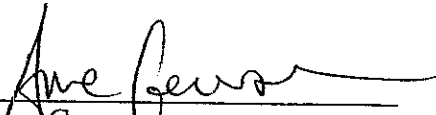
I, Anne Genovese, being duly sworn, do hereby depose and say:

1. In the summer of 1996, I began working for Eicotech Corporation. By the fall of 1996, I started working for the newly formed Eicotech Corporation as a customer service representative. My responsibilities for Eicotech included answering both incoming and outgoing telephone calls from customers. In the spring of 1997 I was promoted and began working in technical support, answering inbound telephone calls and responding to emails about the Zone Diet and Eicotech's EicoZone bar. I remained in this position until I resigned from Eicotech at the end of 1998.
2. After leaving Eicotech, I began working directly for Barry Sears in his Marblehead offices. I was hired to update Dr. Sears' website, www.drsears.com, respond to incoming emails and answer telephone calls, including questions

seeking technical information about the Zone Diet and Dr. Sears' teachings and products.

3. Eicotech introduced its ZonePerfect "crunch bars" in approximately February 1999, soon after I had left the company. Immediately after the bars were introduced, Dr. Sears' office was inundated with calls complaining about the performance of the crunch bars. I personally received many calls from diabetics indicating that they were having very bad reactions to the crunch bars, including increases in their blood sugars. I also received calls from consumers who told me that the bars were not performing correctly. Consumers indicated that the EicoZone bars and the first ZonePerfect bars had held them over for several hours before they needed a meal. I was told by numerous consumers that the crunch bars made them hungry almost immediately. Consumers often asked me things like, "What did Dr. Sears do to the formula?"
4. To this day, I receive telephone calls and emails from consumers who are confused believing that Dr. Sears is still affiliated with ZonePerfect. I attach for the Court's review as Exhibit A true and accurate copies of a small sampling of emails from consumers expressing confusion regarding Dr. Sears' association with ZonePerfect.
5. I did not attend any meetings at ZonePerfect's headquarters in Beverly in which Dr. Sears made any sort of presentation about the crunch bar or participated in a question and answer session with ZonePerfect employees about the crunch bar.

UNDER THE PAINS AND PENALTIES OF PERJURY this 28 of June, 2004.


Anne Genovese